

BEFORE THE DIRECTOR  
OF THE  
OFFICE OF CAMPAIGN FINANCE  
D.C. BOARD OF ELECTIONS AND ETHICS  
2000 14<sup>TH</sup> STREET, N.W., SUITE 420  
WASHINGTON, D.C. 20009  
(202) 671-0550

IN THE MATTER OF

**Anthony A. Williams**  
**Mayor**  
**District of Columbia**  
**John Wilson Building**  
**Washington, D.C. 20001**

**and**

**Vincent Mark J. Policy**  
**Greenstein Delorme and Luchs, P.C.**  
**1620 L Street, N.W.**  
**Suite 900**  
**Washington, D.C. 20036**

DATE: April 8, 2004

DOCKET NO.: Investigation 03-04

**ORDER**

**Statement of the Case**

This matter arises out of a complaint filed by Dorothy A. Brizill (complainant), Executive Director, D.C. Watch, 1327 Girard Street, N.W., Washington, D.C., 20009, alleging that Anthony A. Williams (Respondent W), the Mayor of the District of Columbia, and Vincent Mark J. Policy, Esq. (Respondent P) of Greenstein Delorme and Luchs, P.C. of Washington, D.C. violated the District of Columbia Campaign Finance Reform and Conflict of Interest Act of 1974 (the Act), as amended, D.C. Official Code §§1-1101.01 et seq. (2001 Edition).

Complainant alleges that Respondent P inappropriately donated pro bono legal services to Respondent W and that Respondent W inappropriately received pro bono legal services from Respondent P. Accordingly, complainant requests the Office of Campaign Finance (OCF) to determine whether this donation of pro bono legal services, and receipt thereof, constitute “an illegal donation of something of value by a lobbyist to an elected official, whether services that are explicitly provided to an elected official as an individual can be considered as having been provided to that individual’s political committee, and whether the representation that [Respondent P] is providing in this case falls within the boundaries of legal services that can legitimately be provided as volunteer services to a political campaign.”

### **Issues**

1. Whether Respondent P is a person required to register with OCF, pursuant to D.C. Official Code §1-1105.02, when he allegedly received compensation or expended funds in an amount of \$250 or more in any 3-consecutive-month period for lobbying?
2. If Respondent P is a required registrant, pursuant to D.C. Official Code §1-1105.02, whether Respondent P extended pro bono legal services to Respondent W, a public official, and violated D.C. Official Code §§1-1105.01(5) and 1-1105.06(a), when he allegedly gave services in excess of \$100 in value to Respondent W; and violated D.C. Official Code §1-1106.01(c), when Respondent P allegedly gave said services to Respondent W, based upon an understanding that Respondent W's official action or judgment on D.C. City Council Bill 15-133, "Rental Housing Conversion and Sale Act of 1980 Amendment Act of 2003," which concerns a field of legal interest to Respondent P, would be influenced thereby?
3. If Respondent P is a required registrant, pursuant to D.C. Official Code §1-1105.02, and if Respondent P violated D.C. Official Code §§1-1105.01(5), 1-1105.06(a), and 1-1106.01(c), when he gave services in excess of \$100 in value to Respondent W based upon an understanding that Respondent W's official action or judgment on D.C. City Council Bill 15-133 (the Bill), "Rental Housing Conversion and Sale Act of 1980 Amendment Act of 2003," which concerns a field of legal interest to Respondent P, would be thereby influenced, whether Respondent W violated D.C. Official Code §1-1106.01(c) when he allegedly received legal services from Respondent A based upon an understanding that his official action or judgment on Bill 15-133 would be influenced thereby?

### **Background**

At the November 5, 2003 meeting of the Board of Elections and Ethics (Board), the OCF Director announced that it had come to the attention of OCF that Respondent W was receiving pro bono legal services from Respondent P in defense of a personal lawsuit and that, as a result thereof, OCF was initiating an internal inquiry thereon. The Director specified that the inquiry would involve the issue of whether Respondent W may have also been the subject of lobbying with regard to the Bill.

Then, on November 7, 2003, OCF received a letter from complainant requesting an investigation into "whether [Respondent P's] donation of pro bono legal representation to [Respondent W] as an individual violates the election laws and regulations of the District of Columbia – including whether it constitutes an illegal donation of something of value by a lobbyist to an elected official, whether services that are explicitly provided to an elected official as an individual can be considered as having been provided to that individual's political committee, and whether the representation that [Respondent P] is providing in this case falls within the boundaries of legal services that can legitimately be provided as volunteer services to a political campaign." See Attachment A.

OCF received additional information from complainant on November 17 and December 18, 2003. See Attachments B and C. Upon review of the entire complaint, and the accompanying documents, OCF accepted the complaint for filing on November 24, 2003. Whereupon, OCF dispatched letters to complainant, Respondent P and Respondent W, respectively, to advise that an investigation had commenced in this matter; and, requested information thereon from the respondents.

On December 12, 2003, OCF received a notarized response, with accompanying documents, from Respondent P. See Attachment D. Respondent W requested two (2) extensions within which to obtain counsel and to file an answer in this matter. On January 8, 2004, OCF received Respondent W's notarized answer in this matter. See Attachment E. On February 5, 2004, counsel for Respondent W met with the undersigned, and provided redacted copies of invoices received by Respondent W from Respondent P. See Attachment F. On February 13, 2004, OCF received another notarized declaration from Respondent, with a redacted copy of a check payable to Respondent P's firm. See Attachment G.

At the end of February, as a result of extenuating personal circumstances, the undersigned requested an extension within which to submit the recommended order in this matter, through the Director, from the Board. At the March 3, 2004 meeting of the Board, upon presentation thereof by the Director, the Board granted the extension to no later than the April Board meeting.

In March 2004, the undersigned spoke at length with Thomas Lindenfeld (Lindenfeld) of Washington, D.C., the complainant of the underlying personal lawsuit in which Respondent W is engaged, and his counsel, Sherri L. Wyatt, Esq. (Wyatt) of Sherri L. Wyatt, PLLC, in Washington, D.C. Both stated that Respondent P advised them that he was performing legal services for Respondent W on a pro bono basis.

The scope of the OCF investigation, which was conducted until March 26, 2004, encompassed reviewing and verifying all submitted information, in light of the OCF statute and regulations; research; and in-house meetings.

**Relevant Statutory and Regulatory Provisions**

D.C. Code §1-1101.09(6) (B) states that the term "contribution" "shall not be construed to include. . .[s]ervices provided without compensation, by individuals (including accountants and attorneys) volunteering a portion or all of their time on behalf of a candidate or political committee[.]"

D.C. Official Code §1-1105.01(5) defines the term "gift" to mean, inter alia, "services, or anything of value, unless consideration of equal or greater value is received, for the purpose of influencing the actions of a public official in making or influencing the making of any administrative decision[.]"

D.C. Official Code §1-1105.01(8) defines the term “lobbyist” to mean “any person who engages in lobbying.”

D.C. Official Code §1-1105.01(7) defines the term “lobbying” to mean “communicating directly with any official in the legislative or executive branch of the District of Columbia government with the purpose of influencing any legislative action or an administrative decision”; and, that “the term ‘lobbying’ shall not include. . .[t]estimony given before a committee of the Council of the District of Columbia or before the Council of the District of Columbia, during which a public record is made of such proceedings or testimony submitted for inclusion in such a public record[.]”

D.C. Official Code §1-1106.01(c) reads, “No person shall offer or give to a public official or a member of a public official’s household, and no public official shall solicit or receive anything of value, including a . . .service. . .based on any understanding that such public official’s official actions or judgment or vote would be influenced thereby, or where it could reasonably be inferred that the thing of value would influence the public official in the discharge of his or her duties, or as a reward, except for political contributions publicly reported pursuant to §1-1102.06 and transactions made in the ordinary course of business of the person offering or giving the thing of value.”

Pursuant to 3 D.C.M.R. §3711.1, “Upon a determination. . .that a violation has occurred, the Director may ministerially impose fines upon the offending party[.]”

Pursuant to 3 D.C.M.R. §3711.2, “Fines shall be imposed as follows:

...  
“(w) Accepting, soliciting or giving any thing of value to influence official government actions \$2000[.]”

For good cause shown, pursuant to 3 D.C.M.R. §3711.6, the Director of Campaign Finance may modify, rescind, dismiss or suspend any fine.

### **Summary of Evidence**

Complainant relies upon her verified letters of November 7, 2003, November 17, 2003 and December 18, 2003, and the accompanying enclosures. Complainant submits that “[a] political consultant to Mayor Anthony A. Williams, Thomas Lindenfeld, is currently suing Mayor Williams and Committee to Re-Elect Anthony ‘Tony’ Williams. . .alleging that he had contracted to so work for Mayor Williams, both as an individual and as a candidate for office, and also for the Committee, and that Mayor Williams and the Committee have refused to pay debts that they owe him for his services (Superior Court of the District of Columbia, Case No. 02CA005119). In this suit, the Committee is being represented by Douglas J. Patton and the firm of Holland & Knight and Mayor Williams,

as an individual, is being represented by Vincent Mark Policy, of the firm of Greenstein, DeLorme, and Luchs.”<sup>1</sup>

She continues therein that Mr. Policy is a registered lobbyist of the District of Columbia, for the Apartment and Office Building Association (AOBA) and the Washington, D.C. Association of Realtors, and that he is representing Mayor Williams at no charge. In papers accompanying the November 17, 2003 submission, complainant encloses a witness list for a public hearing on the Bill and Respondent P is listed on the “AOBA Panel.”

In discussions with Lindenfeld and Wyatt, the undersigned learned that, during a mediation session, Respondent P stated that he was not charging Respondent W for his legal services in the contractual dispute between Lindenfeld and Respondent W.

Respondent P relies upon his December 12, 2003 answer, wherein he stated, inter alia, that on February 10, 2003, his firm signed a retainer letter with Respondent W. Respondent P enclosed said letter with his answer. Moreover, he averred that he has not performed any lobbyist activities for AOBA or the D.C. Association of Realtors; and that he is not now registered as a lobbyist for either organization. Copies of his OCF filings are also enclosed with his answer.

Respondent W relies upon his February 5 and 13, 2004, sworn declarations. He averred therein that he engaged Respondent P, pursuant to a retainer agreement, to represent him for costs associated with the underlying contractual dispute. He also attached copies of redacted invoices which he received from the firm of Respondent P and a redacted copy of a check that he used for payment of the services of Respondent P.

OCF relies upon its records.

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<sup>1</sup> It should be noted herein that Thomas Lindenfeld, through his attorney, Sharri Wyatt, brought an action before OCF on September 6, 2002, requesting OCF to require the Committee to Re-elect Anthony Williams (Committee), to which then candidate Anthony A. Williams designated to accept contributions and make expenditures for the purpose of influencing his nomination and election to the office of Mayor, pursuant to D.C. Official Code §1-1102.02(a), to list on its Reports of Receipts and Expenditures (R&E Reports) a debt for \$150,000, for services performed for Anthony A. Williams and the Committee, which is the identical subject of the underlying court case in this matter. Therein, the Committee denied the claim and OCF dismissed the matter, after concluding that inasmuch as the debt was disputed by the Committee and was the subject of a contractual dispute before the District of Columbia Superior Court, it was “not a debt, within the Act, that would be listed on the Committee’s Reports.” In the instant matter, notwithstanding that Thomas Lindenfeld sued Anthony A. Williams in his personal capacity, based upon the record in the former matter, the “debt” arose out of the campaign activities of Anthony A. Williams for the seat of Mayor of the District of Columbia. See 3 D.C.M.R. §3013. Accordingly, that “debt,” if acknowledged by Anthony A. Williams or the Committee to Re-elect Anthony Williams, and the payment thereof, would be reflected in amendments to all prior R&E Reports back to the date when payment was due. See D.C. Official Code §1-1102.06.

### **Findings of Fact**

Having reviewed the allegations and the entire record in this matter, I find:

1. Respondent P's firm, Greenstein DeLorme & Luchs, P.C., submitted lobbyist forms and activity reports for 2003 with respect to the firm's representation of the Washington, D.C. Association of Realtors and AOBA; and Respondent P was a designated lobbyist for both organizations. Attachment D.
2. In 2003, Respondent P's firm, Greenstein DeLorme & Luchs, P.C. did not receive any compensation for or spend any funds on lobbying activities for the Washington, D.C. Association of Realtors and AOBA. Id.
3. On February 10, 2003, Respondent W retained Respondent P's legal services, pursuant to a retainer agreement, to defend him in Lindenfeld v. Williams and Committee to Re-Elect Tony Williams, Civil Action No. 5119-02. Attachment E.
4. Respondent P regularly billed Respondent W monthly for his services, pursuant to their retainer agreement. Attachment F.
5. On October 9, 2003, Respondent P appeared before the D.C. Council Committee on Consumer and Regulatory Affairs public hearing on Bill 15-133, the "Rental Housing Conversion and Sale Act of 1982 Amendment Act of 2003," and testified with persons noted on the Witness List as the "AOBA Panel." Attachment B.
6. On February 5, 2004, Respondent W made partial payment of \$15,000 to Respondent P's firm, Greenstein DeLorme & Luchs, P.C., for Respondent P's services. Attachment G.

### **Conclusions of Law**

Based upon the record, in its entirety, and the evidence, I therefore conclude:

1. Respondent P is subject to the Act's lobbying statute because Respondent P's firm, Greenstein DeLorme & Luchs, P.C., registered him as a lobbyist, pursuant to D.C. Official Code §1-1105.01(8).
2. Respondent P and Respondent W did not violate D.C. Official Code §§1-1105.01(5), 1-1105.06(a) and 1-1106.01(c) because Respondent W contracted to pay Respondent P, for his legal services in his dispute with Thomas Lindenfeld, pursuant to a retainer agreement.<sup>2</sup>

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<sup>2</sup>The issues of "whether services that are explicitly provided to an elected official as an individual can be considered as having been provided to that individual's political committee, and whether the representation that [Respondent P] is providing in this case falls within the boundaries of legal services that can

3. Respondent P and Respondent W did not violate D.C. Official Code §§1-1105.01(5), 1-1105.06(a) and 1-1106.01(c) because Respondent W is paying Respondent P, pursuant to regular monthly bills for the services of Respondent P.

**Recommendation**

I hereby recommend that the Director of the Office of Campaign Finance dismiss this complaint; provided that OCF receives a notarized notice by letter signed by Respondent P and Respondent W upon satisfaction of the payment of the services of Respondent P by Respondent W.

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Date

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Kathy S. Williams  
General Counsel

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legitimately be provided as volunteer services to a political campaign” are not reached because the legal services provided by Respondent P to Respondent W were not pro bono.

**ORDER OF THE DIRECTOR**

**IT IS ORDERED** that this matter be dismissed; provided that OCF receives a notarized notice by letter signed by Respondent P and Respondent W upon satisfaction of the payment of the services of Respondent P by Respondent W.

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Date

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Cecily E. Collier-Montgomery  
Director

**SERVICE OF ORDER**

This is to certify that I have served a true copy of the foregoing Order.

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Anwar Wilson  
Clerk

cc: Dorothy A. Brizill  
Executive Director  
D.C. Watch

Robert M. Krasne, Esq.  
Shana Fulton, Esq.  
Williams & Connolly LLP

Vincent Mark J. Policy, Esq.  
Greenstein DeLorme & Luchs, P.C.

Sherri L. Wyatt, Esq.  
Sherri L. Wyatt, PLLC  
1825 I Street, N.W.  
Suite 400  
Washington, D.C. 20006



**NOTICE**

Pursuant to 3 D.C.M.R. §3711.5 (1999), any fine imposed by the Director shall become effective on the 16<sup>th</sup> day following the issuance of a decision and order, if the respondent does not request an appeal of this matter. If applicable, within 10 days of the effective date of this order, please make a check or money order payable to the D.C. Treasurer, c/o Office of Campaign Finance, Suite 420, 2000 14<sup>th</sup> Street, N.W., Washington, D.C., 20009.